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Of Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

MELISSA BODINE,

Plaintiff,

v.

Case No. **CV '11 - 522 AC**
COMPLAINT

**ROCHE INCORPORATED,
d/b/a DAVE'S PALISADES SERVICE
COMPANY**

**(Fair Labor Standards Act, Wage &
Hour Violations)**

JURY TRIAL REQUESTED

Defendant.

I.

INTRODUCTION

1. Pursuant to ORS 652.020, ORS 653.010 to 653.261 and 29 U.S.C. § 201 *et seq.*,

Plaintiff alleges violation of her statutory rights to be fully compensated for her hours worked.

She seeks damages, attorney fees, and litigation expenses and costs, including expert witness fees

and expenses.

II.

JURISDICTION

2. Jurisdiction on this matter is based upon 28 U.S.C. §1331 and 28 U.S.C. §1367.

III.

PARTIES

3. At all material times, Plaintiff Melissa Bodine (hereafter "Plaintiff") resides in Oregon, and is a former employee of Defendant Roche Incorporated , d/b/a Dave's Palisades Service Company (hereafter "Defendant").

4. At all material times, Defendant is an Oregon Corporation and an enterprise engaged in commerce whose gross receipts exceed the amount stated in 29 USC 203(s)(1)(A)(ii).

IV.

FACTS

5. Plaintiff Melissa Bodine was employed by Defendant from September 2, 2008 to April 12, 2010.

6. At all material times, Shawn Roche, the son of Roche, Inc.'s owner, was the General Manager of Plaintiff's workplace and her sole supervisor.

7. Defendant required Plaintiff to carry out all closing duties before she left work. Plaintiff worked beyond scheduled hours to perform these duties. Defendant knew or should have known Plaintiff worked beyond scheduled time to perform her closing duties.

8. Shawn Roche scheduled Plaintiff to be off work at 9:30 pm and required that Plaintiff write down a time-out of 9:30 pm or earlier on her time-sheets. Shawn Roche knew or

should have known Plaintiff routinely worked until 11:30 pm or later to perform her closing duties.

9. Defendant failed to compensate Plaintiff for the hours she worked beyond her scheduled work time.

10. Defendant caused Plaintiff to suffer financial harm as a result of their unlawful actions.

V.

**CLAIM FOR RELIEF
(Wage & Hour Violations)**

11. Plaintiff realleges the above.

12. Pursuant to 29 USC § 207 and ORS 653, plaintiff is entitled an award of her unpaid overtime, in amounts to be determined at trial, with prejudgment interest accrued from the time each overtime payment should have been paid.

13. Pursuant to 29 USC § 216(b), Plaintiff should be awarded liquidated damages equivalent to the amount of wages owed.

14. Pursuant to ORS 653.055 and ORS 652.150, Plaintiff should be awarded a civil penalty in the maximum amounts mandated by ORS 652.150.

15. Pursuant to 29 USC § 216(b) and ORS 653.055, Plaintiff should be awarded her attorney fees and litigation expenses/costs incurred herein.

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VI.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for compensation for the following in accordance with the proof at trial:

1. Economic harm;
2. Non-economic harm;
3. Reasonable attorneys' fees, litigation expenses/costs, and expert fees;
4. Prejudgment and post judgment interest as appropriate and allowed by law;
5. On all claims, as applicable, amounts necessary to offset the income tax consequences of receiving a lump sum payment, rather than receiving a payment of wages over the applicable time frame;
6. Punitive damages; and
7. Any and all other relief as this court may deem proper.

JURY TRIAL REQUESTED

Dated this 27th day of April, 2011.

Beth Creighton
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Of Attorneys for Plaintiff